

Proposed Regulatory Change
Regarding Non-Compliance in the Emergency Assistance Program
(January 24, 2014)

For nearly two decades, Emergency Assistance (EA) regulations have treated rules violations differently for families housed in emergency shelters than for those housed in hotels. There are a number of reasons for this distinction. Chief among them is that families in hotels have more limited supervision. Consequently, non-rule abiding families in the hotel setting pose a greater risk to ensuring the peaceful and safe residence of rule-abiding families in hotels. Under the current regulation, six shelter rules violations lead to termination of benefits whereas two hotel rules violations lead to termination. However, on November 13, 2013, the Western Massachusetts District Housing Court issued a preliminary injunction requiring DHCD to treat EA participants placed in family shelters and hotels equally in the disciplinary process.ⁱ

As a result, DHCD is proposing to equalize the termination benchmark for shelters and hotels. Under the proposed rules, three rules violations — regardless of whether they occur in a shelter or hotel — will be grounds for termination. In addition, the proposed rule change makes the governing regulations more straightforward. Under current EA regulations, three shelter rules violations equal one non-compliance warning. Two non-compliance warnings result in termination. By contrast, under current regulations, one hotel rule violation equals one non-compliance warning, and two non-compliance warnings result in termination. The proposed rule change eliminates the distinction between a “rules violation” and a “non-compliance warning.” Under the proposed regulation change, each shelter rule violation would result in a non-compliance warning.

These reasonable changes make the consequences for violating the rules equal for families in shelter and hotels and, most importantly, balance the rights of homeless families who are going through the termination process with concerns for the safety of all other families in the emergency shelter system, especially the children.

Since October 2013, DHCD has received hundreds of reports of hotel rules violations, and certain violations placed the safety of children at risk.ⁱⁱ These violations included: unauthorized guests in hotel rooms, failure to properly supervise children, threats to other guests, physical violence that required police intervention, and very poor room conditions.

Dating back to September 2013, DHCD has put on hold hundreds of potential termination cases as a result of the court case. DHCD’s number one priority is the safety and security of families in the emergency shelter system, and delaying the termination process for these individuals potentially jeopardizes the health and safety of the children and other hotel residents.

It is important to note that, in 2010, DHCD made changes to the uniform shelter rules. Those revisions ensured that minor house rule infractions would not be treated as

violations. Rather, an EA resident will be cited for a violation only where that resident has engaged in significant rules violations (e.g., unauthorized overnight stays or health and fire safety). Accordingly, the proposed revisions are, in some respects, more forgiving than those in place through 2010.

Without these proposed regulatory changes, DHCD will be forced to allow hotel families six rules violations before it could pursue termination, leading to potentially dangerous situations for children and families in the hotels.

The following organizations support DHCD's proposed regulatory change:

Berkshire Housing Development Corporation

Berkshire County Regional Housing Authority

Centerboard

Center for Human Development

Central Massachusetts Housing Alliance

Community Teamwork, Inc.

Crittenton Women's Union

Emmaus, Inc.

FamilyAid Boston

Father Bill's

Franklin County Regional Housing and Redevelopment Authority

HAPHousing

Heading Home

Housing Assistance Corporation

Justice Resource Institute

Lynn Housing Authority and Neighborhood Development

Metropolitan Boston Housing Partnership

Middlesex Human Services

New England Farm Workers' Council

Project Hope

RCAP Solutions

Regional Housing Network of Massachusetts

ServiceNet

South Middlesex Opportunity Council

South Shore Housing Development Corporation

ⁱ The case is called *Hayes v. Department of Housing and Community Development*. The lawsuit was brought by the Massachusetts Law Reform Institute. DHCD is appealing the decision to the Appeals Court and is being represented by the Attorney General's office.

ⁱⁱ These reports are alleged violations submitted to DHCD and have not gone through the termination process yet.